

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE APRIL 10, 2013

SENATE BILL

No. 741

Introduced by Senator Cannella

(Coauthors: Senators *Berryhill*, *Fuller*, *Gaines*, and *Nielsen*)

(Coauthors: Assembly Members *Achadjian*, *Alejo*, *Bigelow*, *Dahle*,
Gray, *Olsen*, *Perea*, *V. Manuel Pérez*, *Salas*, and *Williams*)

February 22, 2013

An act to amend Sections 19606.1, 19614, 19620, and 19620.2 of, and to repeal Sections 19608.3 and 19620.1 of, the Business and Professions Code, to amend Sections 3954, 3965, 3965.1, and 3967 of, to repeal Sections 4051.1, 4051.2, 4057, and 4401.5 of, and to repeal and add Sections 3200, 4051, and 4053 of, the Food and Agricultural Code, and to amend Section 11011.2 of the Government Code, relating to fairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 741, as amended, Cannella. California fairs: funding.

(1) Existing law regulates horse racing in this state and provides, among other things, for the payment and distribution of license fees in connection with horse racing meetings. Existing law establishes the Fair and Exposition Fund to, among other things, allocate moneys for the support of the network of California fairs. Existing law requires certain license fees from satellite wagering to be deposited into a separate account in the Fair and Exposition Fund, and continuously appropriates those moneys for specified purposes, including, among others, the payment of expenses incurred in establishing and operating satellite wagering facilities at fairs.

This bill would delete the provisions requiring satellite wagering license fees to be deposited into a separate account in the Fair and Exposition Fund and to be continuously appropriated for specified purposes. The bill would instead require certain revenues paid by racing associations and fairs generated by parimutuel wagering and certain revenues from live races paid by fair racing associations as license fees to be deposited into the Fair and Exposition Fund and would require those funds to be continuously appropriated for various purposes, including, among others, capital improvements at fairgrounds. The bill would also require all funds appropriated for California fairs and expositions to be deposited into the Fair and Exposition Fund and would continuously appropriate those funds for various purposes. By continuously appropriating the funds in the Fair and Exposition Fund, the bill would make an appropriation.

(2) Existing law provides that the Department of Food and Agriculture is responsible for providing oversight of activities carried out by each California fair, including, but not limited to, conducting fiscal and performance audits of county fairs and citrus fruit fairs that are either requested by the fair or that the department deems necessary, and conducting, or causing to be conducted, annual fiscal audits and periodic compliance audits.

This bill would delete the requirement that the department conduct the audits described above and would instead require the department to provide that the books and accounts for the prior calendar year of all fairs receiving money from the Fair and Exposition Fund be examined and reviewed annually and audited once every 3 years by an independent certified public accountant or certified public accountancy firm. The bill would require a summary of the examination to be appended to the fair's annual statement of operation, and would provide that the costs of the annual review or audit be the responsibility of each fair.

(3) Existing law requires the Legislature, from the total revenue received from the Department of Food and Agriculture, to annually appropriate moneys to the department as it deems necessary for the oversight of the network of California fairs and to perform audits. Existing law continuously appropriates any of those funds that are unallocated to the Secretary of Food and Agriculture for specified purposes.

This bill would delete those provisions and instead would appropriate any unallocated balance in the Fair and Exposition Fund without regard to fiscal years for allocation by the secretary for capital outlay to

California fairs for specified purposes. The bill would also specify that no more than 10% of those funds may be used during any year by the Division of Fairs and Expositions to provide oversight and administration of the network of fairs. The bill would require the secretary to annually project the available funds from the Fair and Exposition Fund and to prepare an annual expenditure plan for review and approval by the Joint Committee on Fairs, Allocation, and Classification. The bill would require the secretary's recommendations to be deemed approved 30 days after they are received unless they are rejected by the committee.

(4) Existing law divides the state into agricultural districts and provides for the management of these districts by district agricultural associations. Existing law provides for a board of directors for each district agricultural association, and provides for the appointment of each director by the Governor.

This bill would authorize the Governor to remove a director for cause, upon recommendation by the board. The bill would require the board to adopt a policy and procedure outlining the vote threshold necessary to recommend the removal of a director.

(5) Existing law specifies the duties and responsibilities of district agricultural associations, and requires a district agricultural association to obtain the approval of the Department of Food and Agriculture prior to exercising certain powers, including, among others, the power to sue. Existing law also requires a district agricultural association to obtain the approval of both the Department of Food and Agriculture and the Department of General Services in order to exercise certain other powers, including the power to conduct activities upon the district agricultural association's property, contract, purchase, or convey an interest in either real or personal property, or to use or manage its real estate or personal property.

This bill would revise the duties and responsibilities of the Department of Food and Agriculture and the Department of General Services with respect to district agricultural associations, and, among other things, would delete the requirement that a district agricultural association obtain the Department of Food and Agriculture's approval prior to suing. The bill would also delete the requirement that a district agricultural association obtain prior approval from both the Department of Food and Agriculture and the Department of General Services prior to conducting activities upon the district agricultural association's own property, or entering into a contract or exercising powers over its own

real or personal property. The bill would require the board of directors of a district agricultural association to adopt policies and procedures for contracts, including adopting and publishing competitive bidding procedures for the award of any procurement or contract involving an expenditure of more than \$100,000, and would require a district agricultural association to contract in accordance with those procedures. *The bill would also require a district agricultural association to comply with specified contracting procedures if the estimated total cost of a project exceeds \$25,000, as specified.* The bill would require a district agricultural association to adopt a fiscal review ~~policy, as specified~~ *policy to conduct audits at regular intervals, as specified, and would authorize the Department of Food and Agriculture to require an audit to be conducted at an earlier time if the department deems it necessary to protect the interests of the district agricultural association.* The bill would specify that the title, control, and possession of all personal property acquired, held, managed, or operated by a district agricultural association vests with the district agricultural association. The bill would delete a provision requiring the Secretary of Food and Agriculture to expend up to \$100,000 each fiscal year for an exhibit or exhibits at a fair that demonstrates the process of production and use of food and fiber, and would also delete a requirement that the secretary provide for a conference of fair judges to aid the ~~department~~ *Department of Food and Agriculture* in prescribing regulations, and to expend up to \$15,000 for that purpose. The bill would make other conforming and related changes.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19606.1 of the Business and Professions
- 2 Code is amended to read:
- 3 19606.1. (a) All revenues transferred pursuant to Section
- 4 19616.52 and subdivision (d) of Section 19614 shall be deposited
- 5 in the Fair and Exposition Fund and, notwithstanding Section
- 6 13340 of the Government Code, are continuously appropriated
- 7 from the fund to the Department of Food and Agriculture, for
- 8 allocation by the Secretary of Food and Agriculture, at his or her

1 discretion, for the purposes set forth in paragraphs (1) to (6),
2 inclusive. The concurrence of the Director of Finance shall be
3 required for allocations pursuant to paragraphs (1) and (2).
4 Allocations pursuant to paragraphs (3) to (6), inclusive, shall be
5 made with the concurrence of the Joint Committee on Fairs,
6 Allocation, and Classification.

7 (1) For the repayment of the principal of, interest on, and costs
8 of issuance of, and as security, including any coverage factor,
9 pledged to the payment of, bonds issued or to be issued by a joint
10 powers agency or other debt service or expense, including
11 repayment of any advances made or security required by any
12 provider of credit enhancement or liquidity for those bonds or
13 other indebtedness or expenses of maintaining that credit
14 enhancement or liquidity, incurred for the purpose of constructing
15 or acquiring improvements at a fair's racetrack inclosure, satellite
16 wagering facilities at fairs, health and safety repair projects, or
17 handicapped access compliance projects at fairs or for the purpose
18 of refunding bonds or other indebtedness incurred for those
19 purposes. As used in this paragraph, "coverage factor" means
20 revenues in excess of the amount necessary to pay debt service on
21 the bonds or other indebtedness, up to an amount equal to 100
22 percent more than the amount of that debt service, which a joint
23 powers agency, pursuant to the resolution or indenture under which
24 the bonds or other indebtedness are or will be issued, pledges as
25 additional security for the payment of that debt service or is
26 required to have or maintain as a condition to the issuance of
27 additional bonds or other indebtedness. Notwithstanding any other
28 law, the department may also commit any funds available for
29 allocation under Article 10 (commencing with Section 19620) to
30 complete projects funded under this paragraph in the priority
31 described in this paragraph.

32 (2) For payment to the State Race Track Leasing Commission
33 to be pledged for the repayment of debt necessary to construct a
34 racetrack grandstand at the 22nd District Agricultural Association
35 fairgrounds. This payment shall be made only if the secretary
36 determines, annually, that all other pledged revenues have been
37 applied to the repayment of that debt and have been determined
38 by the secretary to be inadequate for that purpose.

39 (3) For the general support of the network of California fairs
40 pursuant to the provisions of this chapter.

1 (4) For health and safety repair projects at fairs, including fire
2 and life safety improvement projects, regulatory compliance
3 projects, and long-term deferred maintenance projects.

4 (5) For capital improvements at fairgrounds. In making
5 determinations to fund capital improvements pursuant to this
6 paragraph, the secretary may grant priority status to renewable
7 energy generation projects.

8 (6) For the payment of expenses incurred in developing and
9 operating revenue generating projects at fairs, or which directly
10 benefit fairs, including the payment of expenses incurred in
11 establishing and operating horse racing facilities, industry training,
12 the establishment of pilot projects to restructure the current fair
13 system, and for projects realizing a cost savings for more efficient
14 utilization of existing fair resources.

15 (b) The secretary may not make an allocation for purposes of
16 paragraphs (2) to (6), inclusive, of subdivision (a) until the
17 payments required in any fiscal year pursuant to paragraph (1) of
18 subdivision (a) have been funded.

19 (c) Pursuant to subdivision (a), the Joint Committee on Fairs,
20 Allocation, and Classification shall review and concur, or not
21 concur, with the secretary's determination of the allocations to be
22 made pursuant to paragraphs (3) to (6), inclusive, of subdivision
23 (a) in total, and the committee may not add to, or delete projects
24 or line items from, the proposed allocations.

25 (d) The secretary's recommendations to the Joint Committee
26 on Fairs, Allocation, and Classification shall be deemed approved
27 30 days after they are received unless they are rejected by the
28 committee.

29 (e) If the Joint Committee on Fairs, Allocation, and
30 Classification does not concur with the secretary's
31 recommendations, the secretary may submit another set of
32 recommendations to the committee pursuant to this section.

33 (f) The payments required in any fiscal year for the purposes
34 of paragraphs (1) and (2) of subdivision (a) shall be made before
35 the secretary may utilize any moneys pursuant to subdivision (g).

36 (g) Except as otherwise provided in subdivision (f), when the
37 revenues deposited in the Fair and Exposition Fund exceed the
38 amount necessary to satisfy the purposes of paragraphs (1) and (2)
39 of subdivision (a), the secretary may utilize the excess amounts
40 plus the amounts deposited to the credit of the Fair and Exposition

1 Fund pursuant to revenues deposited to the credit of the fund to
2 make allocations from the fund for the purposes of Section 19620.2.

3 SEC. 2. Section 19608.3 of the Business and Professions Code
4 is repealed.

5 SEC. 3. Section 19614 of the Business and Professions Code
6 is amended to read:

7 19614. (a) Notwithstanding Sections 19611 and 19612, and
8 except for an association that qualifies pursuant to Section 19612.6,
9 for a fair conducting a live racing meeting, 1 percent of the total
10 amount handled on live races, excluding wagering at a satellite
11 facility, shall be retained by the fair association for payment to the
12 state as a license fee.

13 (b) Additionally, 0.48 percent of the total amount handled on
14 live racing, excluding wagering at a satellite facility, shall be
15 deposited with the official registering agency pursuant to
16 subdivision (a) of Section 19617.2, and shall thereafter be
17 distributed in accordance with subdivisions (b), (c), and (d) of
18 Section 19617.2.

19 (c) (1) After distribution of the applicable amounts as set forth
20 in subdivisions (a) and (b) and the payments made pursuant to
21 other relevant sections of this chapter, all funds remaining from
22 the deductions provided in Section 19610 shall be distributed 47.5
23 percent as commissions and 52.5 percent as purses. From the
24 amount distributed as thoroughbred purses, a sum equal to 0.07
25 percent of the total handle shall be held by the association to be
26 deposited with the official registering agency pursuant to
27 subdivision (a) of Section 19617.2, and shall thereafter be
28 distributed in accordance with subdivisions (b), (c), and (d) of
29 Section 19617.2.

30 (2) Any additional amount generated for purses and not
31 distributed during the previous corresponding meeting shall be
32 added to the purses at the current meeting.

33 (d) In addition to the amounts deducted pursuant to Section
34 19610, any fair racing association shall deduct 1 percent from the
35 total amount handled in its daily conventional and exotic
36 parimutuel pools. The additional 1 percent shall be deposited in
37 the Fair and Exposition Fund and is hereby appropriated for the
38 purposes specified in paragraph (6) of subdivision (a) of Section
39 19606.1.

1 SEC. 4. Section 19620 of the Business and Professions Code
2 is amended to read:

3 19620. (a) The Legislature finds and declares that the
4 Department of Food and Agriculture is responsible for ensuring
5 the integrity of the Fair and Exposition Fund, administering
6 allocations from the fund to the network of California fairs, as
7 defined in Sections 19418 to 19418.3, inclusive, and providing
8 oversight of activities carried out by each California fair.

9 (b) Oversight shall include, but not be limited to, the following:

10 (1) Monitoring the solvency of the Fair and Exposition Fund.

11 (2) Distributing available state resources to the network of
12 California fairs based on criteria for state allocations approved by
13 the Secretary of Food and Agriculture. The criteria for the
14 distribution of available state resources to the network of California
15 fairs shall not include a consideration of the structure that governs
16 the fair.

17 (3) Creating a framework for administration of the network of
18 California fairs allowing for maximum autonomy and local
19 decisionmaking authority, and conducting, or causing to be
20 conducted, annual fiscal reviews.

21 (4) Requiring books and accounts for the prior calendar year of
22 all fairs receiving money from the fund to be examined and
23 reviewed annually and audited once every three years by an
24 independent certified public accountant or certified public
25 accountancy firm selected by the fair. A summary of this
26 examination, certified by the selected certified public accountant
27 or certified public accountancy firm, shall be appended to the fair's
28 annual statement of operations, along with the accountant or
29 accounting firm's recommendations, for the approval of the
30 secretary. The cost of a fair's annual review or audit shall be the
31 responsibility of each fair. With the approval of the secretary, two
32 or more fairs may conduct or contract for a joint review or audit.

33 (5) Guiding and providing incentives to fairs to seek matching
34 funds and generate new revenue from a variety of sources.

35 (6) Supporting continuous improvement of fair programming
36 to ensure that California fairs remain highly relevant community
37 institutions.

38 SEC. 5. Section 19620.1 of the Business and Professions Code
39 is repealed.

1 SEC. 6. Section 19620.2 of the Business and Professions Code
2 is amended to read:

3 19620.2. (a) Any unallocated balance in the Fair and
4 Exposition Fund is hereby appropriated without regard to fiscal
5 years for allocation by the Secretary of Food and Agriculture for
6 capital outlay to California fairs for fair projects involving public
7 health and safety, for fair projects involving major and deferred
8 maintenance, for fair projects necessary due to any emergency,
9 for projects that are required by physical changes to the fair site,
10 for projects that are required to protect the fair property or
11 installation, such as fencing and flood protection, and for the
12 acquisition or improvement of any property or facility that will
13 serve to enhance the operation of the fair.

14 (b) A portion of the funds subject to allocation pursuant to
15 subdivision (a) may be allocated to California fairs for general
16 operational support. It is the intent of the Legislature that these
17 moneys be used primarily for those fairs whose sources of revenue
18 may be limited for purposes specified in this section.

19 (c) Not more than 10 percent of the funds specified in
20 subdivision (a) may be used during any year by the Division of
21 Fairs and Expositions to provide oversight and administration of
22 the network of California fairs pursuant to this chapter.

23 (d) The secretary shall annually project the available funds from
24 the Fair and Exposition Fund and shall advise the Joint Committee
25 on Fairs, Allocation, and Classification of the administrative budget
26 of the Division of Fairs and Expositions and the additional staff
27 and contracts necessary to develop and administer an operational
28 and policy framework to oversee the network of California fairs
29 and include that amount in the annual expenditure plan described
30 in subdivision (e).

31 (e) The secretary shall prepare an annual expenditure plan for
32 use of the moneys available from the Fair and Exposition Fund
33 for review and approval by the Joint Committee on Fairs,
34 Allocation, and Classification. The Joint Committee on Fairs
35 Allocation and Classification shall review and concur, or not
36 concur, with the spending plan in total, and shall not add to, or
37 delete projects or line items from, the proposed allocation.

38 (f) The secretary's recommendations to the Joint Committee on
39 Fairs, Allocation, and Classification shall be deemed approved 30

1 days after they are received unless they are rejected by the
2 committee.

3 (g) If the Joint Committee on Fairs, Allocation, and
4 Classification does not concur with the secretary's
5 recommendations, the secretary may submit another set of
6 recommendations to the committee.

7 SEC. 7. Section 3200 of the Food and Agricultural Code is
8 repealed.

9 SEC. 8. Section 3200 is added to the Food and Agricultural
10 Code, to read:

11 3200. (a) The Legislature finds and declares that funding for
12 the network of California fairs is a cooperative venture and is
13 anticipated to be generated from multiple sources, public and
14 private. Because of the benefits that accrue to the state and to its
15 residents by virtue of having the fair industry participate
16 cooperatively with the state for the purpose of effectively
17 overseeing and promoting fairs within the state, the Legislature
18 finds and declares that the fairs shall work collectively to identify
19 and designate new funding sources for fairs to be utilized for the
20 benefit of all fairs in the network.

21 (b) Notwithstanding any other law, all funds appropriated for
22 California fairs and expositions pursuant to this chapter or any
23 other law shall be deposited in the Fair and Exposition Fund and
24 are continuously appropriated as specified in Sections 19606.1
25 and 19620.2 of the Business and Professions Code.

26 (c) Notwithstanding Article 2 (commencing with Section 11270)
27 of Chapter 3 of Part 1 of Division 3 of Title 2 of the Government
28 Code relating to administrative costs, the California Exposition
29 and State Fair and the fairs specified in Sections 19418.1, 19418.2,
30 and 19418.3 of the Business and Professions Code shall only be
31 assessed and pay a share of those costs directly related to personnel
32 administration and no other administrative costs for services from
33 other state agencies except costs for services rendered pursuant to
34 specific contracts entered into with other state agencies.

35 SEC. 9. Section 3954 of the Food and Agricultural Code is
36 amended to read:

37 3954. Each association by its name has perpetual succession.
38 It may have a seal. An association may be sued and may sue, and
39 may do any and all things necessary to carry out the powers and
40 the objects and purposes for which the association is formed.

1 SEC. 10. Section 3965 of the Food and Agricultural Code is
2 amended to read:

3 3965. The board may, with the approval of the department:

4 (a) Fix the term of office, the amount of bond, salary, and
5 prescribe the duties of the secretary and of the treasurer.

6 (b) Manage the affairs of the association.

7 (c) Make all necessary bylaws, rules, and regulations for the
8 government of the association.

9 (d) Delegate, as it may deem advisable, to its officers or
10 employees any of the powers that are vested in the board under
11 subdivision (b). Any delegation of power may be revoked at any
12 time.

13 SEC. 11. Section 3965.1 of the Food and Agricultural Code is
14 amended to read:

15 3965.1. (a) Notwithstanding Section 3965 or 4051, the board
16 may arrange for and conduct, or cause to be conducted, or by
17 contract permit to be conducted, by any other individual, institution,
18 corporation, or association, upon its property at a time as it may
19 be deemed advisable, any activity.

20 (b) Notwithstanding subdivision (a), revenue generating
21 contracts involving hazardous activities shall not be approved by
22 the board unless adequate insurance coverage is provided, as
23 determined by the department in consultation with the Department
24 of General Services.

25 SEC. 12. Section 3967 of the Food and Agricultural Code is
26 amended to read:

27 3967. (a) Any director who misses three consecutive regular
28 meetings of the board without the permission of the board is
29 deemed to have resigned from the board.

30 (b) (1) A director may be removed for cause by the Governor,
31 upon recommendation by the board.

32 (2) The board shall adopt a policy and procedure outlining the
33 vote threshold necessary to remove a director pursuant paragraph
34 (1).

35 SEC. 13. Section 4051 of the Food and Agricultural Code is
36 repealed.

37 SEC. 14. Section 4051 is added to the Food and Agricultural
38 Code, to read:

39 4051. (a) Subject only to the conditions specified in this
40 chapter, an association may do any of the following:

1 (1) Contract in accordance with all of the following:

2 (A) The association shall develop, maintain, and comply with
3 its own written policies and procedures for contracting.

4 (B) Notwithstanding any other law, in developing the policies
5 and procedures referenced in subparagraph (A), the board shall
6 incorporate the following to apply to contracts entered into or
7 procurement by a district agricultural association:

8 (i) To ensure the fullest competition, the board shall adopt and
9 publish competitive bidding procedures for the award of any
10 procurement or contract involving an expenditure of more than
11 one hundred thousand dollars (\$100,000). The competitive bidding
12 procedures shall include, but not be limited to, requirements for
13 submission of bids and accompanying documentation, guidelines
14 for the use of requests for proposals, invitations to bid, or other
15 methods of bidding, and a bid protest procedure. The general
16 manager on behalf of the district agricultural association shall
17 determine whether the goods ~~or services~~ subject to this paragraph
18 are available through existing contracts or price schedules of the
19 Department of General Services. The Legislature finds and declares
20 that fairs are a valuable community resource and recognizes that
21 local businesses and local communities make valuable
22 contributions to fairs that include direct and indirect support of
23 fair programs. The Legislature further finds and declares that local
24 businesses often provide opportunity purchases to local fairs that,
25 for similar things available through the state purchasing program,
26 may be purchased locally at a price equivalent to or less than that
27 available through the state purchasing program. As used in this
28 paragraph, “opportunity purchases” means purchases made locally,
29 either individually or cooperatively, at a price equal to or less than
30 the price available through the state purchasing program on or off
31 state contract.

32 (ii) The contracting standards, procedures, and rules contained
33 in this subdivision shall also apply to any subcontract involving
34 an expenditure of more than one hundred thousand dollars
35 (\$100,000). The board shall establish, as part of the bidding
36 procedures for general contracts, subcontracting guidelines that
37 implement this requirement.

38 (iii) The board is subject to the Small Business Procurement
39 and Contract Act (Chapter 6.5 (commencing with Section 14835)
40 of Part 5.5 of Division 3 of Title 2 of the Government Code).

(iv) Notwithstanding clauses (i) and (ii), ~~in contracting for construction contracts involving an expenditure of more than twenty-five thousand dollars (\$25,000), the board is subject to the Public Contract Code.~~ *if the estimated total cost of any construction project or similar work carried out under this section exceeds twenty-five thousand dollars (\$25,000), the district agricultural association shall solicit bids in writing and shall award the work to the lowest responsible bidder or reject all bids. The district agricultural association is subject to all applicable provisions of the Public Contract Code.*

(v) *A district agricultural association may elect to become subject to the provisions of the Uniform Public Construction Cost Accounting Act (Chapter 2 (commencing with Section 22000) of Part 3 of Division 2 of the Public Contract Code).*

(2) Accept funds or gifts of value from the United States or any person to aid in carrying out the purposes of this part.

(3) Conduct or contract for programs, and contract for the purchase or lease of goods ~~and services~~ as are necessary for effectuating the purposes of this chapter, either independently or in cooperation with any individual, public or private organization, or federal, state, or local governmental agency.

(4) Establish and maintain a bank checking account or other financial institution account, approved by the Director of Finance in accordance with Sections 16506 and 16605 of the Government Code, for depositing funds received by the district agricultural association. Notwithstanding Section 13340 of the Government Code, all funds maintained in an account authorized by this paragraph are continuously appropriated to the board, without regard to fiscal year, to carry out this part.

(5) Approve the annual budget of the association and establish a program for paying vendors who contract with the district agricultural association.

(6) Contract with any county or county fair association for holding a fair jointly with the county or county fair association. The joint fair is a district fair of the association.

(7) Make or adopt all necessary orders, rules, or regulations for governing the activities of the district agricultural association. Notwithstanding Section 14, any orders, rules, or regulations adopted by the board are exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the

1 Government Code. For informational purposes only, however, any
2 order, rule, or regulation adopted by the board may be transmitted
3 to the Office of Administrative Law for filing with the Secretary
4 of State pursuant to Section 11343 of the Government Code.

5 (8) Operate a payroll system for paying employees, and a system
6 for accounting for vacation and sick leave credits of employees.

7 (9) Delegate to the officers and employees of the district
8 agricultural association the exercise of powers vested in the board
9 as the board may deem desirable for the orderly management and
10 operation of the association.

11 (10) Except as provided in paragraph (12), with the approval
12 of the Department of General Services, purchase, acquire, hold,
13 sell, or exchange, or convey any interest in real property for a
14 period in excess of 20 years. Any acquisition of land or other real
15 property shall be subject to the Property Acquisition Law (Part 11
16 (commencing with Section 15850) of Division 3 of Title 2 of the
17 Government Code).

18 (11) Make permanent improvements upon publicly owned real
19 property adjacent to, or near the vicinity of, the real property of
20 the district agricultural association when the improvements
21 materially benefit the property of the association.

22 (12) Lease, let, or grant licenses for the use of its real property
23 or any portion of that property, to any person or public body for
24 whatever purpose as may be approved by the board. Any lease of
25 real property for a period in excess of 20 years shall be subject to
26 the approval of the Department of General Services as provided
27 in paragraph (10).

28 (13) Use or manage any of its property jointly or in connection
29 with any lessee or sublessee, for any purpose approved by the
30 board.

31 (14) With the approval of the Department of General Services,
32 pledge any and all revenues, moneys, accounts, accounts
33 receivable, contract rights, and other rights to payment of whatever
34 kind, pursuant to such terms and conditions as are approved by
35 the board. The revenues, moneys, accounts, accounts receivable,
36 contract rights, and other rights to payment of whatever kind
37 pledged by the association or its assignees constitute a lien or
38 security interest that immediately attaches to the property pledged,
39 and is effective, binding, and enforceable against the association,
40 its successors, purchasers of the property so pledged, creditors,

1 and all others asserting rights therein, to the extent set forth, and
2 in accordance with, the terms and conditions of the pledge,
3 irrespective of whether those persons have notice of the pledge
4 and without the need for any physical delivery, recordation, filing,
5 or further action.

6 (b) (1) Notwithstanding any other law, an association shall
7 adopt a fiscal review policy as follows:

8 (1)

9 (A) An association with an annual budget exceeding ~~ten~~ five
10 million dollars ~~(\$10,000,000)~~ (\$5,000,000) shall conduct an annual
11 audit by an independent certified public accountant or certified
12 public accountancy firm selected by the board.

13 (2)

14 (B) An association with an annual budget of less than ~~ten~~ five
15 million dollars ~~(\$10,000,000)~~ (\$5,000,000) shall have its books
16 and accounts examined and reviewed annually and audited once
17 every three years by an independent certified public accountant or
18 certified public accountancy firm selected by the board.

19 (2) *Notwithstanding paragraph (1), the department may require*
20 *an audit to be conducted before the times specified in*
21 *subparagraphs (A) and (B) of paragraph (1) if the department*
22 *deems the audit is necessary to protect the interests of the*
23 *association.*

24 SEC. 15. Section 4051.1 of the Food and Agricultural Code is
25 repealed.

26 SEC. 16. Section 4051.2 of the Food and Agricultural Code is
27 repealed.

28 SEC. 17. Section 4053 of the Food and Agricultural Code is
29 repealed.

30 SEC. 18. Section 4053 is added to the Food and Agricultural
31 Code, to read:

32 4053. Notwithstanding Section 14660.5 of the Government
33 Code, the title, control, and possession of all personal property
34 acquired, held, managed, or operated by a district agricultural
35 association, including property controlled or possessed by the
36 association before the enactment of this section, vests with the
37 association.

38 SEC. 19. Section 4057 of the Food and Agricultural Code is
39 repealed.

1 SEC. 20. Section 4401.5 of the Food and Agricultural Code is
2 repealed.

3 SEC. 21. Section 11011.2 of the Government Code is amended
4 to read:

5 11011.2. (a) (1) Notwithstanding any other law, including,
6 but not limited to, Sections 11011 and 14670, except as provided
7 in this section, the Department of General Services may lease real
8 property under the jurisdiction of a state agency or department, if
9 the Director of General Services determines that the real property
10 is of no immediate need to the state but may have some potential
11 future use to the program needs of the agency or department.

12 (2) The Director of General Services may not lease any of the
13 following real property pursuant to this section:

14 (A) Tax-deeded land or lands under the jurisdiction of the State
15 Lands Commission.

16 (B) Land that has escheated to the state or that has been
17 distributed to the state by court decree in estates of deceased
18 persons.

19 (C) Lands under the jurisdiction of the State Coastal
20 Conservancy or another state conservancy.

21 (D) Lands under the jurisdiction of the Department of
22 Transportation or the California State University system, or land
23 owned by the Regents of the University of California.

24 (E) Lands under the jurisdiction of the Department of Parks and
25 Recreation.

26 (F) Lands under the jurisdiction of the Department of Fish and
27 Wildlife.

28 (3) A lease entered into pursuant to this section shall be set at
29 the amount of the lease's fair market value, as determined by the
30 Director of General Services. The Director of General Services
31 may determine the length of term or a use of the lease, and specify
32 any other terms and conditions that are determined to be in the
33 best interest of the state.

34 (b) The Department of General Services may enter into a
35 long-term lease of real property pursuant to this section that has
36 outstanding lease revenue bonds and for which the real property
37 cannot be disencumbered from the bonds, only if the issuer and
38 trustee for the bonds approves the lease transaction, and this
39 approval takes into consideration, among other things, that the

1 proposed lease transaction does not breach a covenant or obligation
2 of the issuer or trustee.

3 (c) (1) All issuer- and trustee-related costs for reviewing a
4 proposed lease transaction pursuant to this section, and all other
5 costs of the lease transaction related to the defeasance or other
6 retirement of any bonds, including the cost of nationally recognized
7 bond counsel, shall be paid from the proceeds of that lease.

8 (2) The Department of General Services shall be reimbursed
9 for any reasonable costs or expenses incurred in conducting a
10 transaction pursuant to this section.

11 (3) Notwithstanding subdivision (g) of Section 11011, the
12 Department of General Services shall deposit into the General
13 Fund the net proceeds of a lease entered into pursuant to this
14 section, after deducting the amount of the reimbursement of costs
15 incurred pursuant to this section or the reimbursement of
16 adjustments to the General Fund loan made pursuant to Section 8
17 of Chapter 20 of the 2009–10 Fourth Extraordinary Session from
18 the lease.

19 (d) The Department of General Services shall transmit a report
20 to each house of the Legislature on or before June 30, 2011, and
21 on or before June 30 each year thereafter, listing every new lease
22 that exceeds a period of five years entered into under the authority
23 of this section and the following information regarding each listed
24 lease:

25 (1) Lease payments.

26 (2) Length of the lease.

27 (3) Identification of the leasing parties.

28 (4) Identification of the leased property.

29 (5) Any other information the Director of General Services
30 determines should be included in the report to adequately describe
31 the material provisions of the lease.

32 SEC. 22. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety within
34 the meaning of Article IV of the Constitution and shall go into
35 immediate effect. The facts constituting the necessity are:

36 In order to restore the viability of California fairs as soon as
37 possible, it is necessary that this act take effect immediately.

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